

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sergio Guerra	Team: Team # 4	CCRB Case #: 201405043	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/28/2014 1:43 AM	Location of Incident: § 87(2)(b)	Precinct: 43	18 Mo. SOL 10/28/2015	EO SOL 10/28/2015	
Date/Time CV Reported Thu, 05/22/2014 3:14 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 05/22/2014 3:14 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Jonathan Villegas	03289	946372	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Franky Almonte	24165	952400	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jonathan Villegas	Discourtesy: Sgt. Jonathan Villegas spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.SGT Jonathan Villegas	Off. Language: Sgt. Jonathan Villegas made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
C.SGT Jonathan Villegas	Abuse: Sgt. Jonathan Villegas threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) alleged that April 25th, 2014 at 06:00 a.m., three individuals entered his apartment in the 40th Precinct, impersonated FBI agents, and stole \$1,150. On April 27th, 2014, after viewing video footage of the robbery, § 87(2)(b) identified § 87(2)(b) his boss, as one of the robbers, and flagged down Sgt. Jonathan Villegas and PO Franky Almonte regarding the burglary. At approximately 11:10 p.m., § 87(2)(b) was walking to his store located at § 87(2)(b) in the Bronx when Sgt. Villegas and PO Almonte approached him in their marked RMP van. Sgt. Villegas asked § 87(2)(b) “What did you do today?” § 87(2)(b) stated that he did not do anything and was told to keep on walking. Upon arriving at his store, § 87(2)(b) called the police in order to make a complaint against § 87(2)(b) for allegedly stealing money from his store. Officers responded and took a report. At approximately 1:43 a.m. on April 28th, 2014, after § 87(2)(b) closed the store for the night, Sgt. Villegas and PO Almonte re-approached § 87(2)(b) on Guerlain Street, a few blocks from his store. § 87(2)(b) alleged that Sgt. Villegas said, “What did you do today? I don’t give a fuck about it. I can’t do anything about it.” Sgt. Villegas later asked § 87(2)(b) if he was a “smart ass.” (**Allegation A**). After obtaining § 87(2)(b) s ID, Sgt. Villegas asked § 87(2)(b) if he was an “A-rab” and if he was a citizen of the United States (**Allegation B**). § 87(2)(b) walked away from the police van and back to his store, while the officers followed. § 87(2)(b) dialed 911 and stated that he was going to report the officers to IAB for harassment. At the store, while § 87(2)(b) remained on the phone, Sgt. Villegas stated, “You call IAB, I am going to have to lock you up.” (**Allegation C**) § 87(2)(b) was informed that he was under arrest for burglary and was handcuffed. As § 87(2)(b) and both officers drove to the 43rd Precinct, Sgt. Villegas called § 87(2)(b) and spoke to him in Spanish, advising him to come to the stationhouse. § 87(2)(b) was later transported to the 40th Precinct. § 87(2)(b) was arrested and charged with § 87(2)(b)

§ 87(2)(b) (encl. 63). § 87(2)(b) provided a 54 second video of his arrest with no audio, which shows two uniformed Hispanic male officers handcuffing § 87(2)(b) while he attempts to back away and remain on the phone (encl. 9-13).

Mediation, Civil, and Criminal Histories

This case was not eligible for mediation. A request for a Notice of Claim on behalf of § 87(2)(b) returned negative results (encl. 66). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the 2nd complaint filed by § 87(2)(b) since 2011. § 87(2)(b)
- Sgt. Jonathan Villegas has been a member of the NYPD for 7 years and has had 1 previous CCRB allegation which was unsubstantiated (encl. 1). § 87(2)(g)

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) described interacting with two Hispanic male officers, one of which he stated was a Sergeant, after observing his gold shield and the stripes on his sleeve. § 87(2)(b) alleged that the Sergeant was discourteous, used offensive language, and abused his authority (encl. 9-13). During his interview, Sgt. Villegas acknowledged that he was the Sergeant who spoke to and arrested § 87(2)(b) § 87(2)(g)

Allegation A: Sgt. Jonathan Villegas spoke discourteously to § 87(2)(b)

It is undisputed that Sgt. Villegas spoke to § 87(2)(b) on April 28th, 2014. § 87(2)(g)

§ 87(2)(b) stated that after leaving his store, he was approached by Sgt. Villegas and PO Almonte on Guerlain Street from their marked RMP van. § 87(2)(b) stated that Sgt. Villegas asked, “What did you do today? I don’t give a fuck about it. I can’t do anything about it.” § 87(2)(b) stated that he did nothing wrong. Sgt. Villegas asked § 87(2)(b) for his identification and § 87(2)(b) provided it. As the two continued talking, Sgt. Villegas called § 87(2)(b) a “smart ass” (encl. 9-13).

During Sgt. Villegas’ interview, he stated that both he and PO Almonte were on routine patrol, when PO Almonte spotted § 87(2)(b) outside of his store. From the RMP, Sgt. Villegas asked § 87(2)(b) if he was the owner of the store. § 87(2)(b) affirmed that he was the owner and Sgt. Villegas informed him that he was under arrest based on the complaint filed by § 87(2)(b). Although Sgt. Villegas denied using the F-word or calling § 87(2)(b) a smart ass, he acknowledged that he may have used profanity after § 87(2)(b) continuously walked away from him after he was notified that he was under arrest. Sgt. Villegas did not recall what profanity he may have used (encl. 14-18).

During PO Almonte’s interview, he stated that Sgt. Villegas did not use any profanity (encl. 19-23).

§ 87(2)(g)

Allegation B: Sgt. Jonathan Villegas made remarks to § 87(2)(b) based upon race.

It is undisputed that Sgt. Villegas spoke to § 87(2)(b) at approximately 01:15 a.m. on April 28th, 2014. § 87(2)(g)

§ 87(2)(b) stated that after being stopped on Guerlain Street by Sgt. Villegas and PO Almonte in their marked RMP van, Sgt. Villegas asked for § 87(2)(b) s identification. § 87(2)(b) provided it. Upon seeing § 87(2)(b) s identification, Sgt. Villegas asked § 87(2)(b) if he was a citizen of the United States and called him an “A-rab” in a manner which § 87(2)(b) took to be offensive (encl. 9-13).

During Sgt. Villegas’ interview, he stated that the only conversation regarding race or ethnicity that took place between himself and § 87(2)(b) was initiated by § 87(2)(b). After § 87(2)(b) affirmed that he was the owner of the store, § 87(2)(b) stated, “All you white people are the same.” Sgt. Villegas responded, “I am Hispanic, I am not even white.” After Sgt. Villegas placed

§ 87(2)(b) in handcuffs, he asked for § 87(2)(b)'s identification. After seeing his identification, Sgt. Villegas did not ask § 87(2)(b) if he was a citizen of the United States and never called him an "A-rab" or make any reference to the fact that he was of Arabic ancestry (encl. 14-18).

During PO Almonte's interview, he stated that Sgt. Villegas asked § 87(2)(b) for his identification, but that Sgt. Villegas made no mention of § 87(2)(b)'s country of origin, refer to him as an "A-rab," or ask if he was a citizen of the United States (encl. 19-23).

§ 87(2)(g)

Allegation C: Sgt. Jonathan Villegas threatened to arrest § 87(2)(b)

It is undisputed that Sgt. Villegas spoke to § 87(2)(b) at approximately 01:15 a.m. on April 28th, 2014 and arrested him on the complaint filed by § 87(2)(b) § 87(2)(g).

§ 87(2)(b) stated that after initially being harassed by Sgt. Villegas on Guerlain Street, he began walking back to his store and dialed 911, stating that he was going to call IAB and complain about the harassment. The officers followed § 87(2)(b) to his store and exited their marked RMP. As the officers approached § 87(2)(b) he continued to stay on the phone while walking away from the officers. As Sgt. Villegas began to arrest § 87(2)(b) Sgt. Villegas stated, "We don't have to go through this. You call IAB, I am going to have to lock you up." After being arrested and being placed in the van, § 87(2)(b) continued yelling about the invalidity of his arrest. Sgt. Villegas stated, "If you be quiet, I am going to release you." However, § 87(2)(b) was never released and instead was taken to the 43rd Precinct Stationhouse, and later the 40th (encl. 9-13).

During Sgt. Villegas' interview, he stated that after § 87(2)(b) was informed that he was to be arrested, § 87(2)(b) responded by stating, "Are you threatening me? I am calling IAB." § 87(2)(b) proceeded to call IAB. In response, Sgt. Villegas stated, "I am not threatening you, I am telling you, you are under arrest." As per Sgt. Villegas, § 87(2)(b) was informed he was going to be arrested before calling IAB and at no point was told that he was to be arrested for calling IAB (encl. 14-18).

During PO Almonte's interview, he stated that he did not observe § 87(2)(b) take out his cell phone, but did recall § 87(2)(b) threaten to call IAB and report the officers after they attempted to explain to him why he was under arrest. PO Almonte stated that Sgt. Villegas never said that § 87(2)(b) was going to be placed under arrest because he was calling IAB (encl. 19-23).

§ 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date